

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USDC Docket Number : 05-cv-11039

Southeast Floating Docks, Inc.,

v.

AGM Marine Contractors, Inc., et al

CLERK'S CERTIFICATE

I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents numbered:

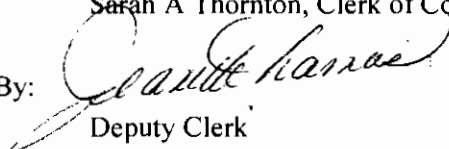
1-45

and contained in 1 Volume(s) are the original or electronically filed pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 11/21/2006.

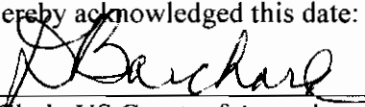
In testimony whereof, I hereunto set my hand and affix the seal of this Court on December 6, 2006.

Sarah A Thornton, Clerk of Court

By:


Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 12/6/06


Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL, REMAND

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:05-cv-11039-EFH**

Southeast Floating Docks, Inc. v. AGM Marine Contractors, Inc. et al
Assigned to: Senior Judge Edward F. Harrington
Related Case: 1:06-cv-10088-EFH
Cause: 28:1332 Diversity-Contract Dispute
Date Filed: 05/18/2005
Jury Demand: None
Nature of Suit: 190 Contract: Other
Jurisdiction: Diversity

Plaintiff

Southeast Floating Docks, Inc.

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V.

Defendant

AGM Marine Contractors, Inc.

Defendant

Childs Engineering Corporation

Defendant

Town of Provincetown

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Date Filed	#	Docket Text
05/18/2005	<u>1</u>	COMPLAINT against AGM Marine Contractors, Inc., Childs Engineering Corporation, Town of Provincetown Filing fee: \$ 250, receipt number 64394, filed by Southeast Floating Docks, Inc.. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Catagory cover sheet)(Holahan, Sandra) (Entered: 05/19/2005)
05/18/2005	<u>2</u>	MOTION for Leave to Appear Pro Hac Vice by Rosemary H Hayes and Tina L. Caraballo Filing fee \$ 100.00, receipt number 64394. by Southeast Floating Docks, Inc.. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B)(Holahan, Sandra) (Entered: 05/19/2005)
05/18/2005		Judge Edward F. Harrington : Electronic ORDER entered granting <u>2</u> Motion for Leave to Appear Pro Hac Vice Added Rosemary H. Hayes for Southeast Floating Docks, Inc., Tina L. Caraballo for Southeast Floating Docks, Inc. MOTION ALLOWED. cc/cl (Holahan, Sandra) (Entered: 05/19/2005)
05/18/2005	<u>3</u>	MOTION for short order of notice by Southeast Floating Docks, Inc.. (Holahan, Sandra) (Entered: 05/19/2005)
05/18/2005		Judge Edward F. Harrington : Electronic ORDER entered granting <u>3</u> Motion for short order of notice. MOTION ALLOWED. cc/cl (Holahan, Sandra) (Entered: 05/19/2005)
05/18/2005	<u>4</u>	Judge Edward F. Harrington : ORDER entered. re <u>1</u> Complaint for Stay of Arbitration Proceeding and Enforce Arbitration Subpoenas, filed by Southeast Floating Docks, Inc., Hearing set for 6/1/2005 02:00 PM in Courtroom 13 before Judge Edward F. Harrington. SO ORDERED. cc/cl (Holahan, Sandra) (Entered: 05/19/2005)
05/26/2005	<u>5</u>	SUMMONS Returned Executed AGM Marine Contractors, Inc. served on 5/20/2005, answer due 6/9/2005. (Holahan, Sandra) (Entered: 05/31/2005)
05/26/2005	<u>6</u>	SUMMONS Returned Executed Childs Engineering Corporation served on 5/23/2005, answer due 6/13/2005. (Holahan, Sandra) (Entered: 05/31/2005)
05/26/2005	<u>7</u>	WAIVER OF SERVICE Returned Executed Town of Provincetown waiver sent on 5/19/2005, answer due 7/18/2005. (Holahan, Sandra) (Entered: 05/31/2005)
05/26/2005	<u>8</u>	NOTICE of lawsuit and request for waiver of service of summons by Town of Provincetown (Holahan, Sandra) (Entered: 05/31/2005)
06/01/2005	<u>9</u>	NOTICE of Appearance by Leigh A. McLaughlin on behalf of Southeast Floating Docks, Inc. (Filed in open court) (Holahan, Sandra) (Entered: 06/02/2005)
06/01/2005	<u>10</u>	Town of Provincetown's Memorandum in Opposition to Plaintiff's

		Application for Stay of Arbitration and Enforcement of Arbitration Subpoenas (application is contained in Complaint) (Holahan, Sandra) (Entered: 06/02/2005)
06/01/2005	<u>11</u>	AFFIDAVIT of Richard T. Holland re <u>10</u> Memorandum in opposition by Town of Provincetown. (Attachments: # <u>1</u> Exhibit A-F (NOT SCANNED))(Holahan, Sandra) (Entered: 06/02/2005)
06/01/2005		Clerk's Notes for proceedings held before Judge Edward F. Harrington : Hearing re to Stay Arbitration Proceeding and Enforce Arbitration Subpoenas held on 6/1/2005: Counsel appear for all parties; Court hears arguments; Matters taken under advisement. (Court Reporter T. Gibson.) (Holahan, Sandra) (Entered: 06/02/2005)
06/02/2005	<u>12</u>	Judge Edward F. Harrington : ORDER entered. re <u>1</u> Complaint, filed by Southeast Floating Docks, Inc. SO ORDERED. cc/cl(Holahan, Sandra) (Entered: 06/02/2005)
06/02/2005		Civil Case Terminated. (Holahan, Sandra) (Entered: 06/02/2005)
06/16/2005	<u>13</u>	First MOTION for Attorney Fees & Costs & to Keep Case Open Pending Compliance with Court Order by Southeast Floating Docks, Inc.. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B)(Caraballo, Tina) (Entered: 06/16/2005)
06/16/2005	<u>14</u>	First MOTION for Bill of Costs by Southeast Floating Docks, Inc.. (Caraballo, Tina) (Entered: 06/16/2005)
06/28/2005	<u>15</u>	MEMORANDUM in Opposition re <u>13</u> First MOTION for Attorney Fees & Costs & to Keep Case Open Pending Compliance with Court Order filed by Town of Provincetown. (Attachments: # <u>1</u> Exhibit A-F (NOT SCANNED))(Holahan, Sandra) (Entered: 06/29/2005)
07/01/2005	<u>16</u>	First MOTION for Contempt Order & Sanctions by Southeast Floating Docks, Inc.. (Attachments: # <u>1</u> Exhibit "A"# <u>2</u> Exhibit "B"# <u>3</u> Exhibit) (Hayes, Rosemary) (Entered: 07/01/2005)
07/05/2005	<u>17</u>	AFFIDAVIT of Southeast Floating Docks, Inc. in Support re <u>16</u> First MOTION for Contempt Order & Sanctions of Added Time Spent and Documents Produced filed by Southeast Floating Docks, Inc.. (Attachments: # <u>1</u> Exhibit A)(Caraballo, Tina) (Entered: 07/05/2005)
07/07/2005		Judge Edward F. Harrington : Electronic ORDER entered denying <u>13</u> Motion for Attorney Fees, denying <u>14</u> Motion for Bill of Costs. MOTION DENIED. cc/cl (Holahan, Sandra) (Entered: 07/07/2005)
07/15/2005	<u>18</u>	EMERGENCY MOTION to Seal by Town of Provincetown. (Attachments: # <u>1</u> Exhibit A-D (NOT SCANNED))(Holahan, Sandra) (Entered: 07/18/2005)
07/15/2005	<u>19</u>	***** (SEE NOTICE OF CORRECTION DATED 7/18/2005) MEMORANDUM in Support re <u>18</u> MOTION to Seal filed by Town of Provincetown. (Holahan, Sandra) Modified on 7/18/2005 (Holahan, Sandra). (Entered: 07/18/2005)

07/15/2005	<u>20</u>	AFFIDAVIT of David J. Doneski in Support re <u>18</u> MOTION to Seal filed by Town of Provincetown. (Attachments: # <u>1</u> Exhibit A-C (NOT SCANNED))(Holahan, Sandra) (Entered: 07/18/2005)
07/15/2005	<u>21</u>	AFFIDAVIT of Richard T. Holland in Support re <u>18</u> MOTION to Seal filed by Town of Provincetown. (Holahan, Sandra) (Entered: 07/18/2005)
07/15/2005	<u>22</u>	CERTIFICATE OF CONSULTATION re <u>18</u> MOTION to Seal by Richard Thomas Holland on behalf of Town of Provincetown, Town of Provincetown (Holahan, Sandra) (Entered: 07/18/2005)
07/15/2005	<u>23</u>	MEMORANDUM in Opposition re <u>16</u> First MOTION for Contempt Order & Sanctions filed by Town of Provincetown. (Holahan, Sandra) (Entered: 07/18/2005)
07/18/2005		***** Notice of correction to docket made by Court staff. Correction: Document # 19 corrected because: pleading linked to wrong motion (Holahan, Sandra) (Entered: 07/18/2005)
07/18/2005		Judge Edward F. Harrington : Electronic ORDER entered granting <u>18</u> Motion to Seal. MOTION ALLOWED. cc/cl (Holahan, Sandra) (Entered: 07/18/2005)
07/18/2005	<u>24</u>	SEALED DOCUMENT placed in secure file room.. (ATTACHMENT TO DOCUMENT #15) (Holahan, Sandra) (Entered: 07/18/2005)
07/18/2005		Judge Edward F. Harrington : Electronic ORDER entered denying <u>16</u> Motion for Contempt order & sanctions. MOTION DENIED. THE MATTER HAS BEEN DENIED. cc/cl (Holahan, Sandra) (Entered: 07/18/2005)
08/03/2005	<u>25</u>	MOTION Final Appealable Order, Order on Impounded Documents, for Findings of Fact and Conclusions of Law and Alternative Motion for Time Extension by Southeast Floating Docks, Inc.. (Attachments: # <u>1</u> Exhibit A)(Caraballo, Tina) (Entered: 08/03/2005)
08/12/2005	<u>26</u>	NOTICE OF APPEAL as to Order on Motion for Contempt, Order on Motion to Seal by Southeast Floating Docks, Inc.. \$ 255 NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 9/1/2005. (Hayes, Rosemary) (Entered: 08/12/2005)
08/15/2005	<u>27</u>	MEMORANDUM in Opposition re <u>25</u> MOTION Final Appealable Order, Order on Impounded Documents, for Findings of Fact and Conclusions of Law and Alternative Motion for Time Extension filed by Town of Provincetown. (Attachments: # <u>1</u> Exhibit A-D)(Holahan, Sandra) (Entered: 08/16/2005)
08/16/2005		Judge Edward F. Harrington : Electronic ORDER entered denying <u>25</u> Motion for entry of final appealable order, order on impounded documents, for findings of fact & conclusions of law, & alternative motion for time extension (Holahan, Sandra) (Entered: 08/16/2005)

08/17/2005	●	Filing fee: \$ 255.00, receipt number 66325 regarding notice of appeal (Holahan, Sandra) (Entered: 08/17/2005)
08/18/2005	●28	NOTICE by Southeast Floating Docks, Inc. re <u>26</u> Notice of Appeal, <i>Notice of Filing Hearing Transcript for Inclusion in Record on Appeal</i> (Attachments: # <u>1</u> June 1, 2005 Hearing Transcript)(Caraballo, Tina) (Entered: 08/18/2005)
08/18/2005	●29	Certified and Transmitted Record on Appeal to US Court of Appeals re <u>26</u> Notice of Appeal, (Ramos, Jeanette) (Entered: 08/18/2005)
08/26/2005	●30	USCA Case Number 05-2262 for <u>26</u> Notice of Appeal, filed by Southeast Floating Docks, Inc., (Ramos, Jeanette) (Entered: 08/26/2005)
09/23/2005	●31	TRANSCRIPT of Hearing held on June 1, 2005 before Judge Harrington. Court Reporter: Teri C. Gibson. The original transcripts are maintained in the case file in the Clerk's Office. Copies may be obtained by contacting the court reporter at 617/650-6288 or the Clerk's Office. (Scalfani, Deborah) (Entered: 09/23/2005)
12/23/2005	●32	Supplemental Record on Appeal transmitted to US Court of Appeals re <u>26</u> Notice of Appeal, Documents included: 31 (Ramos, Jeanette) (Entered: 12/23/2005)
01/19/2006	●	Notice of correction to docket made by Court staff. Law firm information for attorneys Rosemary Hayes and Tina Caraballo updated. (Hurley, Virginia) (Entered: 01/19/2006)
04/27/2006	●33	Supplemental Record on Appeal transmitted to US Court of Appeals re <u>26</u> Notice of Appeal, Documents included: 24 (Ramos, Jeanette) (Entered: 04/27/2006)
08/08/2006	●34	USCA Judgment as to <u>26</u> Notice of Appeal, filed by Southeast Floating Docks, Inc. The denial of contempt is VACATED, and the matter is REMANDED for further proceedings consistent with this opinion. All requests for attorney's fees are DENIED. Costs to appellant. (Ramos, Jeanette) (Entered: 08/08/2006)
08/23/2006	●35	Judge Edward F. Harrington : ORDER entered. A hearing on plaintiff's efforts to enforce the conditional proviso in an order of conditional dismissal is scheduled for Tuesday, October 3, 2006, at 10:00 a.m.(Folan, Karen) (Entered: 08/23/2006)
08/28/2006	●36	MANDATE of USCA as to <u>26</u> Notice of Appeal, filed by Southeast Floating Docks, Inc., (Ramos, Jeanette) (Entered: 08/28/2006)
09/07/2006	●	Appeal Record Returned: <u>26</u> Notice of Appeal, (Ramos, Jeanette) (Entered: 09/07/2006)
09/11/2006	●37	USCA TAXATION OF COSTS: Costs in favor of Appellant, Southeast Floating Docks, Inc. are taxed as follows: Reproduction of brief for appellant....\$53.10 Reproduction of reply brief....\$18.90 Reproduction of appendix....\$131.85 Docket Fee....\$250.00 TOTAL....\$453.85 Pursuant to Fed. R. App. P. 39(d)(3), the district court is directed to add this taxation

		of costs to the mandate issued on August 24, 2006. (Ramos, Jeanette) (Entered: 09/11/2006)
09/12/2006	38	Judge Edward F. Harrington : ORDER entered. "Pursuant to Fed.R.App.P. 39(d)(3), the District Court directs the taxation of costs in favor of Plaintiff Southeast Floating Docks, Inc., be added to the mandate issued on August 24, 2006. SO ORDERED." (Folan, Karen) (Entered: 09/15/2006)
09/29/2006		ELECTRONIC NOTICE OF RESCHEDULING Hearing reset for 10/12/2006 11:00 AM before Senior Judge Edward F. Harrington. (Folan, Karen) (Entered: 09/29/2006)
10/03/2006		ELECTRONIC NOTICE OF RESCHEDULING Hearing reset for 10/17/2006 11:00 AM before Senior Judge Edward F. Harrington. (Folan, Karen) (Entered: 10/03/2006)
10/17/2006		ElectronicClerk's Notes for proceedings held before Judge Edward F. Harrington : Hearing held on 10/17/2006. Colloquy re: turning over documents to plaintiff. The court takes the matter under advisement. (Court Reporter Cloonan.) (Folan, Karen) (Entered: 10/19/2006)
10/18/2006	39	Second MEMORANDUM in Opposition re 16 First MOTION for Contempt Order & Sanctions, 13 First MOTION for Attorney Fees & Costs & to Keep Case Open Pending Compliance with Court Order filed by Town of Provincetown. (Attachments: # 1 Exhibit # 2)(Doneski, David) (Entered: 10/18/2006)
10/18/2006	40	NOTICE by Southeast Floating Docks, Inc. of Filing Return of Service (Hayes, Rosemary) (Entered: 10/18/2006)
10/18/2006	41	AFFIDAVIT of Richard T. Holland re 39 Memorandum in Opposition to Motion, by Town of Provincetown. (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit # 4 Exhibit # 5 Exhibit)(Doneski, David) (Entered: 10/18/2006)
10/18/2006	42	Judge Edward F. Harrington : ORDER entered. (Folan, Karen) (Entered: 10/19/2006)
10/18/2006		Civil Case Terminated. (Folan, Karen) (Entered: 10/25/2006)
10/26/2006	43	MOTION to Reopen Case ,Enforce Appellate Mandate & For Extension Of Time To Perfect Appeal & To Strike Provincetown's Unauthorized Response & Affidavit by Southeast Floating Docks, Inc..(Hayes, Rosemary) (Entered: 10/26/2006)
10/30/2006		Judge Edward F. Harrington : Electronic ORDER entered denying 43 Motion to Reopen Case. "Motion to reopen is denied. Case has been closed. Plaintiff is entitled to file new action if it deems it to be necessary. So ordered." (Folan, Karen) (Entered: 10/31/2006)
11/20/2006	44	NOTICE by Southeast Floating Docks, Inc. of Filing Records (Including Incomplete or Illegible Materials) Withheld in Response to Subpoenas in Arbitration (Hayes, Rosemary) (Entered: 11/20/2006)

11/21/2006	<u>45</u>	NOTICE OF APPEAL to the Federal Circuit as to <u>42</u> Order, Order on Motion to Reopen Case, by Southeast Floating Docks, Inc.. Appeal Record due by 12/11/2006. (Hayes, Rosemary) (Entered: 11/21/2006)
11/22/2006	●	Filing fee: \$ 455, receipt number 76569 for <u>45</u> Notice of Appeal to the Federal Circuit (Folan, Karen) (Entered: 12/06/2006)